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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,437	05/25/2000	Jianhua Fan	12515.4USD1	6437

7590 07/03/2002

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EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/578,437

Applicant(s)

FAN, JIANHUA

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1.25.27-29,44-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.25.27-29, 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application-Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

**Note:** Claims 24, 32, and 40 which Applicant has called “withdrawn” are considered cancelled because Examiner considers the intent of Applicant to cancel these claims.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 25, lines 2 and 3, the limitation “shape of the plate is different with a plant pot” is unclear because the plate does not change shape when a pot is placed in it. Perhaps the language should be --the shape of the plate is different from a plant pot--.

In Claim 29, line 1, the dependency “of claims 1, and 27,” is indefinite because multiple dependent claims must be stated in the alternative (for example, --The tray of claims 1 or 27,--). see MPEP 608.01(n). **Note:** Examiner considers Claim 29 to depend upon Claim 1.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by JP6-225651.

As to Claim 1, JP6-225651 discloses a tray (Figs. 1,2 and 7) for a pot comprising a plate (8 of Fig. 7) with side walls and a bottom wall (7 of Fig. 1), the plate holding fluid (Fig. 1); a wick (Fig. 2) accompanying the plate which provides fluid ( Fig. 1); and, at least one support (7 of Fig. 7) coupled to the plate for supporting a plant pot, the at least one support makes enough space for reserving fluid in the tray (see Fig. 1).

As to Claim 29, JP6-225651 further discloses a lip (region of plate around leadline of element 8).

Claims 25, 28, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmohl (DT 2539552 A1).

As to Claim 25, Schmohl disclose a self watering apparatus (see Figure in abstract) comprising a plate (1 of Figure) with side walls and a bottom wall, the shape different from a plant pot (see Figure), sidewalls (region around leadline of 1 in Fig.) supporting the pot with a clearance between the walls of the plate and the walls of the pot; and a wick (3 of Fig) with a tube (2 of Figure) accompanying the plate which provides a fluid conduit capable of sucking fluid from the plate.

As to Claim 28, Gardner et al. further disclose a notch (7 of Fig) for holding a pot and air flowing in and out of the tray.

As to Claim 46, Gardner et al. further disclose a rod (7 of Fig) for holding a pot.

Claims 27, 44, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by JP7-147851.

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As to Claim 27, JP7-147851 discloses a self watering tray (2 of Fig. 1) for a plant pot comprising a plate (1 of Fig. 1 with side walls, bottom, and fluid (10 of Fig. 1); at least one leg (6 of Fig. 1) coupled to the plate with two section, an up section (defined as up section by Examiner in Fig. 1) and a low section (defined as low section by Examiner in Fig. 1) the up section smaller than the low section (defined as smaller in diameter), and a shoulder (defined as shoulder by Examiner in Fig. 1) between the up and low sections.

As to Claim 44, JP7-147851 further discloses a sucking material (9 of Fig. 2).

As to Claim 45, JP7-147851 further discloses a wick attached to the up section (9 of Fig. 2).

### ***Response to Arguments***

Applicant's arguments with respect to Claims 1,25,27-29, and 44-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP7-313003 and JP5-219845 disclose in the prior art various trays with wicks.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose telephone number is 703.305.0053.

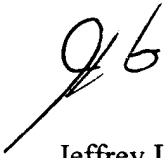
The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm.


The Examiner can also be reached on alternate Fridays.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The fax phone numbers for the Technology Center where this application or proceeding is assigned are 703.305.7687, 703.305.3597, and 703.306.4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

  
Jeffrey L. Gellner

  
CHARLES T. JORDAN  
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